IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. TRANSFER PETITION NO. 22/2006
(Vikram Singh Vs. State of Rajasthan)

Date of Order : 10/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Ramesh Purohitfor the petitioner.
Mr. Vishnu Kachhawaha public prosecutor for the State.

BY THE COURT:-

Issue notice for final disposal. Mr. Vishnu Kachhawaha accepts the notice. With the consent of learned counsel for the parties, the present petition is finally heard and decided.

By the instant petition under Section 407 Cr.P.C., the petitioner seeks transfer of Sessions Case No.83/2005 State Vs. Jaggu and Ors. From the Court of Additional Sessions Judge (Fast Track) No.1, Bhilwara to any other Court at Bhilwara.

I have heard learned counsel for the parties.

The petitioner filed an application under Section 408 Cr.P.C. before the learned Sessions Judge, Bhilwara. By order impugned dated 1.9.2006, learned Sessions Judge dismissed the

transfer petition on the ground that the counsel did not produce the order sheet dated 13.7.2006 passed by Additional Sessions Judge (Fast Track) No.1, Bhilwara.

I have carefully gone through the order dated 13.7.2006 passed by the trial court. It appears that the said Sessions Case is being conducted through Advocate Tejsingh Charan who suddenly fell ill and was hospitalized. It is stated that subsequently Tejsingh Charan, learned counsel for the petitioner who was conducting the case of the petitioner before the trial court, expired. The petitioner sought adjournment on the ground that his counsel has been hospitalized and is not in a position to conduct the case. It appears that the adjournment was refused by the trial court and according to learned counsel, the trial court was bent upon to record the statement of prosecution witnesses and that has prejudiced the case of the petitioner. In the circumstances, the petitioner apprehends that a fair and impartial trial cannot be had in the Court of Additional Sessions Judge (Fast Track) No.1, Bhilwara and therefore, the petitioner seeks transfer of the case to any Court situated at Bhilwara.

Keeping in view the facts and circumstances of the case and the manner in which the trial court declined adjournment in the matter, more particularly when the counsel conducting the case of the petitioner suddenly fell ill and was hospitalized, the

apprehension of the petitioner cannot be said to be unfounded and therefore, in my view, the petition deserves to be allowed.

In the result, the transfer petition is allowed. The Sessions Judge, Bhilwara is directed to transfer the Sessions Case No.83/05 either to his own Court or to any other Court of Additional Sessions Judge (Fast Track) at Bhilwara.

(H.R.PANWAR),J.

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